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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,335	02/21/2006	Manfred Jungen	2003CH007	3143

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CLARIANT CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
4000 MONROE ROAD  
CHARLOTTE, NC 28205

EXAMINER
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NGUYEN, KHANH TUAN

ART UNIT	PAPER NUMBER
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1796

MAIL DATE	DELIVERY MODE
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03/13/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/569,335	<b>Applicant(s)</b> JUNGEN, MANFRED	
	<b>Examiner</b> KHANH T. NGUYEN	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on RCE, filed 01/25/2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/25/2008 has been entered.

### ***Response to Amendment***

2. The amendment filed on 01/25/2008 is entered and acknowledged by the Examiner. Claims 1-14 are currently pending in the instant application. Claims 15-27 have been canceled.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

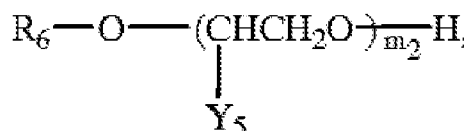
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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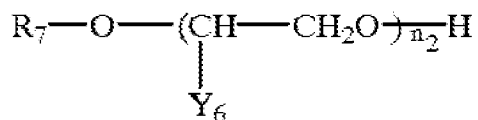
The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Traber et al. (U.S. Pat. 6,200,948).

With respect to claims 1 and 5, Traber discloses an aqueous textile auxiliary formulation comprising of 10-60 wt. % of a nonionic surfactant component (a) having a formulate



wherein R<sub>6</sub> is a linear C<sub>8</sub>-C<sub>13</sub> alkyl radical, Y<sub>5</sub> may be a hydrogen or methyl, and m<sub>2</sub> has an average value of 3 to 15 (Col. 1, line 12, Col. 2, lines 26-30 and Col. 2, lines 50-62) and 10-60 wt. % of one or more nonionic surfactant component (b) having a formulate



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wherein  $R_7$  is a linear  $C_8$ - $C_{18}$  alkyl radical,  $Y_6$  may be a hydrogen, methyl or ethyl, and  $n_2$  has an average value of 1 to 40 (Col. 1, line 20, Col. 2, lines 26-30 and Col. 3, line 57 to Col. 4, line 5). Traber teaches the said aqueous textile auxiliary formulation may further comprises 0-20 wt. % of a third nonionic surfactant component (d) (Col. 1, lines 30-35 and lines 50-62). The disclosure of nonionic surfactant component (a), nonionic surfactant component (b) and optionally nonionic surfactant component (d) are considered readable on the claimed component (A) which contains at least two distinct alkoxyates of formula (I). Traber further teaches the said aqueous textile auxiliary formulation comprising 0-30 wt. % of a chelating agent or sequestering agent component (f) which is readable on the claimed component (B) (Col. 1, line 40 and Col. 6, line 1 to Col. 7, line 21). The said aqueous textile auxiliary formulation may further comprises 4-20 wt. % of a hydrotropic agent component (c) which is readable on the claimed component (C) (Col. 4, line 5 to Col. 5, line 12). Traber also discloses the said aqueous textile auxiliary formulation may contain 0-8 wt. % of magnesium salt in context is the sulfate or its heptahydrate and in particular the chloride or its hexahydrate, preferred salt is magnesium chloride hexahydrate (Col. 1, line 38-39 and Col. 5, lines 60-67). The disclosure of magnesium chloride hexahydrate salt component (e) is readable on the claimed component (D). Traber further teaches the said aqueous textile auxiliary formulation may comprising of 0-10 wt. % of a diol or polyol component (g) and 0-60 wt. % of water component (h) (Col. 1, lines 41-42).

The difference between the instant claimed application and Traber reference is Traber does not teach the specific claimed combination of components (A) to (D).

However, it would have been obvious to one having the ordinary skill in the art at the time of the invention to select a combination of components [(a), (b), (c), (e), and (f)] of Traber from a small list of ingredients disclosed by Traber to arrive at the claimed composition. Therefore, one of ordinary skill in the art would have had a reasonable expectation of success because such as a textile treating composition containing components (A) to (D) is expressly suggested by Traber disclosure and therefore is an obvious formulation.

With respect to claim 2, Traber further discloses an aqueous mixture wherein R1 is a linear or branched C8-C15-alkyl radical, R2 is hydrogen or methyl, and n has an average value of 5 to 9 (component (a) and (b)); B) is citric acid (Col. 4, line 38), sodium gluconate (chelating or sequestering agent), an alpha- hydroxyl polyacrylate, ATMP, HEDP, DTPMPA, EDTMPA, PBTC, salts of these phosphonates or mixture thereof; C) is cumenesulphonic acid, naphthalenesulphonic acid (i.e. hydrotropic additive), an alkali metal salt of cumenesulphonic acid, an alkali metal salt of naphthalenesulphonic acid, an ammonium salt of cumenesulphonic acid, an ammonium salt of naphthalenesulphonic acid; and D) is magnesium chloride, magnesium sulphate (i.e. magnesium salt), calcium chloride or calcium sulphate. (Col. 1, lines 6-65)

With respect to claim 3, Traber further discloses an aqueous mixture wherein R1 is a linear or branched C12-C15-alkyl radical, R2 is hydrogen or methyl, and n has an average value of 6 or 7 (component (a) and (b)); B) is citric acid (Col. 4, line 38), sodium

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gluconate (sequestering agent), DTPMPA, or mixture thereof; C) is cumenesulphonic acid (i.e. hydrotropic agent), an alkali metal salt of cumenesulphonic acid, an ammonium salt of cumenesulphonic acid; and D) is magnesium chloride or magnesium sulphate (i.e. magnesium salt). (Col. 1, lines 6-65)

With respect to claim 4, Traber further discloses an aqueous mixture wherein B) is citric acid (Col. 4, line 38) and sodium gluconate (sequestering agent), C) is sodium cumenesulphonate (i.e. hydrotropic agent), and D) is magnesium chloride (i.e. magnesium salt). [(Col. 7, lines 35-67) and (Col. 8, lines 1-23)]

With respect to claim 6, Traber further discloses an aqueous mixture wherein in A1) R1 is a branched C8-C12-alkyl radical, R2 is hydrogen or methyl, and n has an average value of 5 to 9 (component (a)); and in A2) wherein R1 is a linear or branched C10-C17-alkyl radical, R2 is hydrogen or methyl, and n has an average value of 4 to 8 (component (b)), and B) is citric acid (Col. 4, line 38), sodium gluconate (chelating or sequestering agent), an alpha- hydroxyl polyacrylate or ATMP, HEDP, DTPMPA, EDTMPA, PBTC or salts of these phosphonates or mixture thereof; C) is cumenesulphonic acid, naphthalenesulphonic acid (i.e. hydrotropic additive), an alkali metal salt of cumenesulphonic acid, an alkali metal salt of naphthalenesulphonic acid, an ammonium salt of cumenesulphonic acid, an ammonium salt of naphthalenesulphonic acid; and D) is magnesium chloride, magnesium sulphate (i.e.

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magnesium salt), calcium chloride or calcium sulphate. (Col. 1, lines 6-65 and Col. 2, lines 4-10).

With respect to claim 7, Traber further discloses an aqueous mixture wherein A1) R1 is a branched C10-alkyl radical, R2 is hydrogen, and n has an average value of 7 (component (a)); and in A2) wherein R1 is a linear or branched C12-C15-alkyl radical, R2 is hydrogen, and n has an average value of 6 (component (b)); and B) is citric acid (Col. 4, line 38), sodium gluconate (sequestering agent), DTPMPA or mixture thereof; C) is cumenesulphonic acid, an alkali metal salt of cumenesulphonic acid (sequestering agent), an ammonium salt of cumenesulphonic acid; and D) is magnesium chloride or magnesium sulphate (i.e. magnesium salt). (Col. 1, lines 6-65 and Col. 2, lines 4-10).

With respect to claim 8, Traber further discloses an aqueous mixture wherein A1) is an alkoxylate of a linear or branched C10-alcohol or mixture thereof having on average 8 ethylene oxide units (moles) and 1 propylene oxide unit (moles); and A2) is an alkoxylate of a linear or branched C12-C15-alcohol having on average 7 ethylene oxide units (Moles); and B) is a mixture of citric acid (Col. 4, line 38) and sodium gluconate (sequestering agent); C) is cumenesulphonic acid (sequestering agent); and D) is magnesium chloride (i.e. magnesium salt). (Col. 1, lines 6-65, Col. 2, lines 4-67 and Col.3, lines 1-11).



With respect to claim 9, Traber further discloses an aqueous mixture wherein B) is a mixture of citric acid (Col. 4, line 38) and sodium gluconate (sequestering agent); C) is cumenesulphonic acid (sequestering agent); and D) is magnesium chloride (i.e. magnesium salt). (Col. 1, lines 6-65, Col. 2, lines 4-10, Col. 7, lines 35-67 and Col. 8, lines 1-23).

With respect to claim 10, Traber further discloses an aqueous mixture wherein said component A has a concentration of 1% to 40% by weight, said component B has a concentration of 1% to 20% by weight, said components C and D each have a concentration of 0.1% to 10% by weight, based on the aqueous mixture. (Col. 1, lines 6-65).

With respect to claim 11, Traber further discloses an aqueous mixture wherein said component A has a concentration of 7% to 20% by weight, said component B has a concentration of 2% to 10% by weight, said components (C) and (D) each have a concentration of 0.4% to 5% by weight, based on the aqueous mixture. (Col. 1, lines 6-65).

With respect to claim 12, Traber further discloses an aqueous mixture wherein said component A has a concentration of 14% to 20% by weight, said component B has a concentration of 3% to 8% by weight, said components (C) and (D) each have a

concentration of 0.6% to 2.5% by weight, based on the aqueous mixture. (Col. 1, lines 6-65).

With respect to claim 13, Traber further discloses an aqueous mixture further comprising a antifoaming agent and a defoamer (foaming-suppressing component). (Col.1, lines 66-67 and Col. 2, lines 1-3).

With respect to claim 14, Traber further discloses a textile pretreated with the aqueous mixture according to claim 1. (Col. 7, line 12-21).

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHANH T. NGUYEN whose telephone number is (571)272-8082. The examiner can normally be reached on Monday-Friday 8:00-5:00 EST PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Kopec/  
Primary Examiner, Art Unit 1796

KTN  
02/25/2008